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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,244	06/29/2001	Michael Wayne Brown	AUS920000711US1	8612

7590 02/27/2007
David Victor, Esq
315 South Beverly Dr., Ste. 210
Beverly Hills, CA 90212

EXAMINER

APPLE, KIRSTEN SACHWITZ

ART UNIT	PAPER NUMBER
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3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/895,244	Applicant(s) BROWN ET AL.	
	Examiner Kirsten S. Apple	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

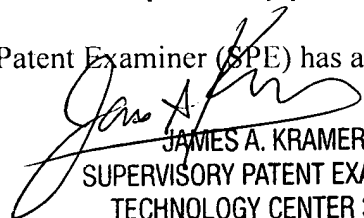
In view of the Appeal Brief filed on April 11, 2006, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:


JAMES A. KRAMER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-45 is are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular it is indefinite and the examiner did not understand in claim 1 (of which others are similar to dependent):

“a user”

It is unclear to the examiner and one of ordinary skill in the art what is claim by this description. Is the user the buyer or the seller? Under “maintaining scheduled event records for a user” it appears the user could be the buyer or seller. The examiner requires specification on which or both are indicated. In the next line “receiving a request for bids for a service from the user” it appears the user is the seller. Is this true?

For the purposes of this review the examiner will interpret the claim to be:

“maintaining scheduled event records for the buyer”

“receiving a request for bids for a service from the seller”

“determining scheduled event records for the buyer”

If the term user is in any other claims please clarify “buyer” or “seller”

Claim Rejections - 35 USC § 103

The Examiner has read and reviewed all of the information provided by the Applicant.

The examiner rejects as final claims 1-45 under 35 USC 103.

The Applicant attention is re-drawn to the following:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gans (article “contracts and electricity pool. Prices”) in view of Calabria (Lotus Notes 4.5 and the Internet by Jan Calabria with Sue Plumley)

Re claim 1: Gans discloses:

A method for implementing an auction, (see Gans, , "pool market ") comprising:

Receiving a request for bid during a indicated time period (see Gans, section 2, 2nd paragraph, "pool prices will vary each half hour")

Receiving a bid (see Gans, section1, 3rd paragraph, "by writing contracts")

Although Gans does not specifically have an calendar feature it is assumed that with "half hour" increments there must be some calendar or system to calculated which day and time the bid is for, more specifically Calabria teaches an "electronic calendar for inviting others" (Page 137-142, specifically 139)

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to add calendar feature as taught in Calabria to Gans.

It is clear that one would be motivated to have flexibility and accurately in specifying services for auction. .

Re claim 2: Gans discloses:

Multiple bids per time slot may be submitted (see Gans, section1, 2nd paragraph "half-hourly bids" – the fact that it is plural "bids" and not "bid" indicates multipul)

Re claim 3: Gans discloses:

Determining and accepting most favorable bid in before expiration of bidding period (see Gans, section1, 2nd paragraph "highest price pay" indicates accepting most favorable)

Re claim 4: Gans discloses:

Notify user and originator of accepted bid & storing accepted bid (see Gans, section1, 2nd paragraph "generator received the system marginal price")

Re claim 5: Gans discloses:

Frequency indicating multiple bids per time period

Determining and accepting most favorable multiple bids in before expiration of bidding period (see Gans, “half-hour” time periods and “highest price pay” indicates accepting most favorable)

Re claim 6: Gans discloses:

Indicates a time period during which the highest bid will be accepted (see Gans, “half-hour” time periods)

Re claim 7: Gans discloses:

Time interval is capable of comprising a day, a week, and a month (see Gans, “half-hour” time periods, multiple ones could add up to a day week or month)

Re claim 8: Gans discloses:

Most favorable bid comprises a lowest amount bid (see Gans, section 1, 2nd paragraph “generator received the system marginal price”)

Re claim 9: Gans discloses:

Accepting each bid having the highest bid amount (see Gans, section 1, 2nd paragraph “highest price pay” indicates accepting most favorable)

Re claim 10: Calabria discloses:

Scheduled event records used by a PIM (personal information manager) (see Calabria, page 139)

Re claim 11: Calabria discloses:

User can modify, add or further limit scheduled event records (see Calabria, page 139)

Re claim 12: Calabria discloses:

Template displays time slots (see Calabria, page 138, figure 22.1, "Time") Re

claim 13: Calabria discloses:

Scheduled event record provides a description of scheduled event, if unavailable no description (see Calabria, page 138, figure 22.1, "Brief description")

Re claim 14: Gans discloses:

User comprises one of a service provider seeking bidders (see Gans, electricity company is a service provider and a user of the pool system)

Re Claim 15

The method claim 1 is similar to claims 15. It would be obvious to one of ordinary skill in the art that these claim have similar limitation. Therefore; claim 15 is rejected based on the information provided regarding claim 1.

Re Claim 16

The method claim 14 is similar to claims 16. It would be obvious to one of ordinary skill in the art that these claim have similar limitation. Therefore, claim 16 is rejected based on the information provided regarding claim 14.

Re Claim 17

The method claim 3 is similar to claim 17. It would be obvious to one of ordinary skill in the art that these claim have similar limitation. Therefore, claim 17 is rejected based on the information provided regarding claim 3.

Re Claims 18-45

The method claims 1-14 are similar to the system claims 18-31 and article of manufacturing claims 32-45. It would be obvious to one of ordinary skill in the art that these claim have similar limitation. Therefore, claims 18-31 & 32-45 are rejected based on the information provided regarding claims 1-14.

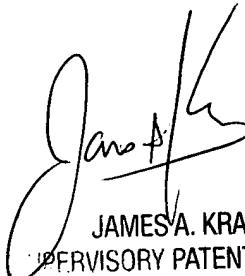
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6126.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksa

 2/2/07
JAMES A. KRAMER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600